

REMARKS

Status Summary

With this Amendment, Claims 1-8 are pending in the present application. Claim 1 has been amended. Applicants respectfully submit that the amendment to claim 1 does not require further search by the Examiner since the Amendment places claim 1 back to its original form before the last amendment made claim 1 in Amendment A filed. Applicants respectfully submit that the Amendment places independent claim in condition for allowance or in a better condition for an appeal, as discussed in greater detail below. Reconsideration of the application as amended and based on the remarks set forth below is respectfully requested.

Claim Rejections Under 35 U.S.C. §112

Claims 1-8 presently stand rejected under 35 U.S.C. §112, first paragraph, for failing to comply with the enablement requirement. The Examiner contends that the claim contains subject matter which was not described in the specification in such a way as to enable one of ordinary skill in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Particularly, the Examiner contends that the inclusion of claim 1 of "selectively activating or de-activating the carriers in the first frequency band for providing a hot-start capability of the ISDN-Transmission" appears to be unsupported by the originally filed specification.

Applicants respectfully disagree that the step of selectively activating or de-activating the carriers in the first frequency band providing a hot-start capability of the ISDN-Transmission is not enabled within the present specification. However, to

facilitate prosecution, Applicants have amended claim 1 to remove the step described above. Accordingly, Applicants submit that the 35 U.S.C. §112, first paragraph, rejection has been overcome by the amendments set forth and noted above. As such, Applicants respectfully request the rejections of claims 1-8 under 35 U.S.C. §112, first paragraph, be withdrawn and the claims allowed at this time.

Claim Rejections Under 35 U.S.C §103(a)

From the Office Action Dated August 10, 2005

While none of the present claims were rejected in the latest Official Action based on prior art, Applicants wish to provide the following remarks regarding the distinctive features of the present claims over the prior art as cited in the first Official Action dated August 10, 2005. Particularly, the remarks below relay the patentable distinctions of the present subject matter over EP 0 740 451 A1 to Mestdagh (hereinafter “Mestdagh”) in view of EP 0 844 759 A2 to Proctor (hereinafter “Proctor”).

Claim 1 of the present application recites a method for joint transmission of ISDN and ADSL data between a first station and a second station via a transmission line. The method includes the step of modulating an ISDN data stream by means of an ADSL modulator to form an ADSL data stream in the first station for transmission as a mixed data stream in the current upstream direction to the second station. The ISDN data stream in the mixed data stream in the current upstream direction is modulated onto carrier frequencies, which are reserved for modulating the ISDN data stream in a first frequency band. The ADSL data stream and the mixed data stream

in the current upstream direction is modulated above this first frequency band. The method of claim 1 also recites the demodulating the mixed data stream and the second station by the means of ADSL demodulator to form a corresponding transmitted ADSL data stream and a corresponding transmitted ISDN data stream. Further, claim 1 recites modulating an ISDN data stream by means of an ADSL modulator to form an ADSL data stream in the second station for transmission as a mixed data stream in the current downstream direction to the first station. The ADSL data stream in the mixed data stream in the current downstream direction is modulated in a second frequency band above the first frequency band. The method of claim 1 also recites the step of the demodulating this mixed data stream in the fist station by means of an ADSL demodulator to form a corresponding transmitted ADSL data stream and a corresponding transmitted ISDN data stream.

Applicants respectfully submit that Mestdagh in view of Proctor does not rendered independent claim 1 or the claims that depend therefrom obvious. Claim 1 and the claims that depend therefrom are not rendered obvious by Mestdagh in view of Proctor because the references, in particular Proctor, teaches away from the Examiner's proposed combination. MPEP §2145 states that is improper to combine references where the references teach away from their combination. Further, Proctor teaches away from the method of claim 1.

Mestdagh discloses embedding a digital MTS signal and ADSL data stream by modulating the digital MTS signal on a subset of carriers, which form part of a set of carriers on which the transmit signal is modulated. While Mestdagh discloses

modulating a MTS signal in an ADSL data stream, it does not disclose, teach or suggest that an ISDN data stream should be modulated by an ADSL modulator. Further, Mestdagh does not disclose, teach or even suggest that the MTS signal, which is modulated into the ADSL data stream should occupy a frequency band below the ADSL data stream.

Proctor discloses a method for delivering a high data rate signal representing first services and a lower data rate signal representing second services from the same link. However, Proctor discloses transmitting the higher data rate signal in fixed size data packets within frames and having the lower data rate signals being accommodated in time slots in the frames not occupied by the fixed size data packets. Proctor does not disclose, teach or suggest having an ADSL data stream that is modulated into a frequency band above the frequency band of the ISDN signals.

In fact, Proctor teaches away from such modulation steps. Proctor states that transmitting the VDSL signal at higher frequency than the ISDN creates problems in that the ISDN uses up spectrum inefficiently compared to the VDSL signal. Having a VDSL signal being carried at high frequencies inherently restricts the highest frequency, which can be carried by a communication link. Proctor goes on to state that there are problems with dedicating one or more of a number of discrete carriers generated by digital multiplexing equipment specifically for carrying the ISDN signal and moving the other carriers to carry the VDSL signals. Proctor states that, in such case, the two signals are very separate and receipt from the same source would

become very complex. (See page 3, lines 21-33) Proctor goes on to disclose that ISDN data should not be formed in the same data packets as VDSL signals used, because the latency of the packetization is high which would mean that ISDN link would no longer conform to necessary requirements. (See Proctor, page 3, lines 33-35)

Therefore, Proctor teaches away from its combination with Mestdagh. Moreover, Proctor also teaches away from having the ADSL data stream being modulated into the frequency band above the frequency band for the ISDN signals as recited in claim 1. Therefore, one of ordinary skill in the art would not look to combine Mestdagh with Proctor in the manner suggested in the August 10, 2005 Office Action, because Proctor actually teaches away from such a combination. For the reasons set forth above, Applicants respectfully submit that Mestdagh in view of Proctor do not render obvious independent claim 1 as currently amended.

Accordingly, Applicants respectfully submit that claim 1 as currently amended and the claims that depend therefrom are patentably distinguishable from Mestdagh in view of Proctor.

#### CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully

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requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

DEPOSIT ACCOUNT

A check in the amount of \$450.00 is enclosed. However, the Commissioner is authorized to charge any deficiencies of payment or credit any overpayments associated with the filing of this correspondence to Deposit Account No. 50-0426.

Respectfully submitted,

JENKINS, WILSON, TAYLOR & HUNT, P.A.

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REJ/DMS/ans/gwc

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